

Remote Learning Education Exemption FAQs

Q1: If I provide educational services at the licensed location, what steps do I need to take to ensure separation between the child care and the educational services?

A: The first step required of a licensed child care agency choosing to provide remote learning support would be for the owner/operator of the agency to apply for an education exemption. The link to learn more and apply for the education exemption can be found here: <https://www.tn.gov/humanservices/families/child-care-services/remote-learning-education-exempt-programs.html>

In completing the application, the licensed agency should be thinking about how the agency will separate the licensed child care from the education exempt program. This separation includes, but is not limited to:

- Physical separation
- Separation of funding streams
- Separation of staff

In a licensed child care agency that also supports the education exempt program, the child care services will ultimately become “before and after care” for the school-aged children. The category and model of care does not change, but the child care services will be reserved for those times when remote learning is not occurring. Please note, while approval of the education exempt program is the only step necessary for exemption of licensure as a child care agency under the Tennessee Department of Human Services, the education exempt program should consult outside legal counsel to ensure that the program continues to comply with all other federal, state and local laws. In accordance with Tenn. Code Ann. § 71-3-503 (c)(5), “If the program or activity is regulated by any other federal, state or local agency, it is required by such other agency to comply with standards that substantially meet or exceed department licensing guidelines.” Additionally, Tenn. Code Ann. § 71-3-503 (d)(3) states, “Exemption from licensure does not exempt the program or activity from compliance with any other local, state or federal requirements.”

Q2: Can I use staff employed by the licensed child care agency?



A: It depends. If staff is employed by the licensed child care agency but also working in the education exempt program it will be important to understand how the staff member is paid in order to determine how the funding should be separated, if necessary. Should the child care agency's income revenue be derived entirely from private pay families, staff may remain on the same payroll but work separately in the licensed child care and in the education exempt program. However, it is important to retain documentation that clearly identifies a distinction for the staff noting when they are working as an educator in the child care agency setting, and when they would be facilitating or monitoring remote learning. At no time should the staff member "float" between the two (2) programs.

If the licensed child care agency participates in the Child Care Certificate Program and/or the Essential Employee Payment Assistance Program and receives reimbursement for children enrolled, those are federal monies that cannot be used for staff during the time they would be facilitating or monitoring remote learning. There will be additional information forthcoming from the Department on how licensed child care agencies should record attendance for reimbursement.

Q3: How do I proceed if my families participate in the Child Care Certificate Program and/or the Essential Employee Payment Assistance Program?

A: If a licensed child care agency participates in the Child Care Certificate Program and/or the Essential Employee Payment Assistance Program, any funding received from the state for reimbursement is federal money from the Child Care and Development Fund (CCDF). As a result, a licensed child care agency participating in the Child Care Certificate Program and/or the Essential Employee Payment Assistance Program may only submit time for reimbursement when the school-aged child is **not** participating in remote learning offered through an education exempt program. The licensed child care essentially serves as the before and after care for children participating in remote learning, and that time must be subtracted from the time submitted for reimbursement through the Child Care Certificate Program and/or Essential Employee Payment Assistance Program. There will be additional information forthcoming from the Department on how licensed child care agencies should record attendance for reimbursement.

Q4: What if I have been approved for one of the relief grants to support operational costs as a result of the COVID-19 pandemic?



A: The emergency relief grants offered by the Tennessee Department of Human Services and the Community Foundation of Middle Tennessee are funded through federal CARES Act monies, which, similarly to the Child Care Certificate Program and/or Essential Employee Payment Assistance Program funding, may not be used to “supplant or duplicate education services.” See SEC. 658M of 42 USC 9858k. As such, the licensed child care agency should be sure to retain documentation on how the programs remain separate and federal monies are not being used to fund the education exempt program.

Please note-there is a separate grant available for non-profit organizations (TN Community Cares grants) and if you need additional information on those grants, please visit: <https://www.tn.gov/humanservices/tennessee-community-cares-program.html>.

Q5: What if I serve children of essential employees and am being reimbursed as part of the Essential Employee Child Care Payment Assistance Program?

A: The Essential Employee Payment Child Care Assistance Program uses the same process and funding stream as the Child Care Certificate Program, which is all funded from the Child Care and Development Fund (CCDF). As such, a licensed child care agency participating in the Essential Employee Payment Assistance Program may only submit time for reimbursement when the school-aged child is ***not*** participating in remote learning offered through an education exempt program. The licensed child care essentially serves as the before and after care for children participating in remote learning, and that time must be subtracted from the time submitted for reimbursement through the Essential Employee Child Care Payment Assistance Program. There will be additional information forthcoming from the Department on how licensed child care agencies should record attendance for reimbursement soon.

Q6: Do I need to post something for families to notify them of the separation in programs?

A: No. Education exempt programs are not required to post signage for the public signifying the status of the program. However, the Department does require



licensed child care agencies to notify families of the distinction between the different programs if they are hosting both the licensed child care and the education exempt program for their school-aged population.

Q7: Can I bring in children who are not enrolled in the child care agency to participate in the remote learning program?

A: Yes. Once the site is approved as an education exempt program the makeup and number of the population served is outside the scope of Tennessee Child Care Licensing requirements. Children are not required to attend both the licensed child care and the education exempt program for their remote learning needs, but if they do attend both, the licensed child care agency should retain documentation that clearly identifies a distinction between attendance in either program.

Q8: Do I need to sign the children in and out of the child care program to participate in the remote learning?

A: Yes. If the children attend both the licensed child care agency for before/after school care and the education exempt program for remote learning services, the licensed child care should retain documentation that clearly identifies when each child is participating in each distinct program. This is especially important when it comes to licensed child care agencies that participate in either the Child Care Certificate program and/or the Essential Employee Child Care Payment Assistance Program, as the licensed child care agency will be responsible for accurately reporting time spent in each distinct program for reimbursement.